

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**  
300 Lakeside Drive, P.O. Box 12688, Oakland, CA 94604-2688

Board of Directors  
Minutes of the 1,693rd Meeting  
November 21, 2013

A regular meeting of the Board of Directors was held November 21, 2013, convening at 9:04 a.m. in the Board Room, 344 20<sup>th</sup> Street, Oakland, California. President Radulovich presided; Kenneth A. Duron, District Secretary.

Directors present: Directors Blalock, Fang, Keller, Mallett, McPartland, Murray, Raburn, Saltzman, and Radulovich.

Absent: None.

President Radulovich announced that the order of agenda items would be changed.

President Radulovich brought Introduction of Special Guests before the Board, and welcomed and introduced Mr. Alan Smith, Vice Chair, BART Accessibility Task Force. Mr. Smith addressed the Board.

The following individuals addressed the Board.

Mr. Steve Zeltzer  
Mr. Alan Hollie

Director McPartland exited the Meeting.

Consent Calendar items brought before the Board were:

1. Approval of Minutes of the Meetings of October 24, 2013 (Regular), and October 24, 2013 (Special).
2. Amendment to the District's Conflict of Interest Code.
3. Resolution of Project Compliance and Initial Project Report for Regional Measure 1, Regional Measure 2 and AB1171 Bridge Toll Funds for the eBART Project.
4. BART Accessibility Task Force New Member Appointment.
5. Resolutions Fixing the Employer's Contribution under the Public Employees' Medical and Hospital Care Act.
6. Reject All Bids for Contract No. 59CT-110, Wayfinding Improvements Phase II.

Director Murray made the following motions as a unit. Director Mallett seconded the motions, which carried by unanimous electronic vote. Ayes - 8: Directors Blalock, Fang, Keller, Mallett, Murray, Raburn, Saltzman, and Radulovich. Noes - 0. Absent – 1: Director McPartland.

1. That the Minutes of the Meetings of October 24, 2013 (Regular), and October 24, 2013 (Special), be approved.
2. Adoption of Resolution No. 5227, In the Matter of Amendment to Conflict of Interest Code.
3. Adoption of Resolution No. 5228, In the Matter of the Approval of a Resolution of Project Compliance and Initial Project Report for Regional Measure 1, Regional Measure 2, and AB1171 Bridge Toll Funds for the East Contra Costa County Rail Extension/eBART Project.
4. That the Board accepts the recommendation of the BART Accessibility Task Force (BATF) and appoints the nominated candidate, Marina Villena, for membership to the BATF for a term effective November 13, 2013, to June 30, 2014, or until the Board makes new appointments, whichever occurs later.
5. Adoption of Resolutions Nos. 5229, 5230, 5231, 5232, 5233, and 5234, In the Matter of Fixing the Employer’s Contribution under the Public Employees’ Medical and Hospital Care Act for Employees Represented by American Transit Union Local 1555, Service Employees International Union Local 1021, American Federation of State, County, and Municipal Employees Local 3993, BART Police Managers’ Association, BART Police Officers’ Association, and Non-Represented Employees, respectively.
6. That all bids for Contract No. 59CT-110, Wayfinding Improvements Phase II, be rejected.

Director McPartland re-entered the Meeting.

President Radulovich called for Public Comment on Item 9-C, Closed Session, Conference with Labor Negotiators.

The following individuals addressed the Board.

Ms. Sylvia Hemmerich  
Mr. Steve Zeltzer  
Mr. Kip Waldo  
Ms. Antonette Bryant  
Mr. Chris Finn  
Mr. Chris Daly  
Mr. Eric Scott  
Mr. Lakmin Abeygoonesekera  
Ms. Jaimie Thompson  
Ms. Josie Mooney

Ms. Sarah Gwaltney  
Mr. Larry Williams  
Mr. Charles Smith  
Mr. Manual Vega

President Radulovich announced that the Board would enter into closed session in the adjacent conference room under Item 9-C (Conference with Labor Negotiators) of the regular meeting agenda, and that the Board would reconvene in open session at the end of that closed session.

The Board Meeting recessed at 10:06 a.m.

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The Board reconvened in closed session at 10:12 a.m.

Directors present: Directors Blalock, Fang, Keller, Mallett, McPartland, Murray, Raburn, Saltzman, and Radulovich.

Absent: None.

The Board Meeting recessed at 11:42 a.m.

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The Board reconvened in open session at 11:45 a.m.

Directors present: Directors Blalock, Fang, Keller, Mallett, McPartland, Murray, Raburn, Saltzman, and Radulovich.

Absent: None.

President Radulovich announced that the Board had concluded its closed session and there were no announcements to be made.

President Radulovich brought the matters of Resolution Ratifying Collective Bargaining Agreement with the Amalgamated Transit Union, Division 1555, and Resolution Ratifying Collective Bargaining Agreement with the Service Employees International Union, Local 1021, including the BART Professional Chapter, before the Board. Director Keller moved that the Board authorize the General Manager to enter into the tentative agreements as written, minus section 4.8, and if SEIU and/or ATU ratify such tentative agreements minus section 4.8 she may execute them on behalf of the District. Director Raburn seconded the motion.

Mr. Elliot Hughes addressed the Board.

The item was discussed. The motion carried by electronic vote. Ayes - 8: Directors Blalock, Fang, Keller, McPartland, Murray, Raburn, Saltzman, and Radulovich. Noes – 1: Director Mallett.

Director Murray, Chairperson of the Administration Committee, brought the matter of Lease for Approximately 22,480 Square Feet of Warehouse Space at 1085 Whipple Avenue, Hayward, California, before the Board. Mr. Joe Basuino, Senior Right of Way Officer, presented the item. Director Blalock moved that the General Manager or her designee be authorized to execute a lease amendment with PPF Industrial Whipple Properties 1001, LLC, for 22,480 square feet of warehouse space at 1085 Whipple Avenue, Hayward, for a 30-month term beginning February 1, 2014, for a total rental amount, including operating expenses and a security deposit, not to exceed \$385,000.00. Director Saltzman seconded the motion, which carried by unanimous electronic vote. Ayes - 9: Directors Blalock, Fang, Keller, Mallett, McPartland, Murray, Raburn, Saltzman, and Radulovich. Noes - 0.

Director Murray brought the matter of Condemnation of Real Property for the Hayward Maintenance Complex Project, BART Parcel Numbers O-ACHMC1-1A, O-ACHMC2-1A, and O-ACHMC3-1A, before the Board. Mr. Basuino presented the item. The item was discussed.

Director Keller exited the Meeting.

Director Blalock moved adoption of Resolution No. 5235, Resolution of Necessity to Condemn Real Property; Make Findings and Determinations; Authorize Eminent Domain Proceedings and Application for Possession Prior to Judgment for BART Parcels O-ACHMC1-1A, O-ACHMC2-1A, and O-ACHMC3-1A; Draw and Deposit Warrant. Director Raburn seconded the motion, which carried by the required two-thirds majority by unanimous electronic vote. Ayes - 8: Directors Blalock, Fang, Mallett, McPartland, Murray, Raburn, Saltzman, and Radulovich. Noes - 0. Absent – 1: Director Keller.

Director Murray brought the matter of Amendment to Agreement No. 6M4303, with Gummerson & Conhain, Inc., for Negotiator Services, before the Board. Mr. Rudolph Medina, Department Manager, Labor Relations, presented the item.

Director Keller re-entered the Meeting.

The item was discussed.

The following individuals addressed the Board.

Ms. Antonette Bryant

Ms. Josie Mooney

Mr. John Arantes

Ms. Patricia Schuchardt

Mr. Elliot Hughes

Mr. Manuel Vega

Director Blalock moved that the General Manager or her designee be authorized to execute an amendment to Agreement No. 6M4303, with Gummerson & Conhain Inc., for continuation of negotiator services for completion of the District's 2013 collective bargaining process. Director Mallett seconded the motion, which carried by unanimous electronic vote. Ayes - 9: Directors Blalock, Fang, Keller, Mallett, McPartland, Murray, Raburn, Saltzman, and Radulovich. Noes - 0.

Director Murray brought the matter of Productivity-Adjusted Inflation-Based Fare Increase Program before the Board. Mr. Carter Mau, Assistant General Manager, Administration and Budget, and Ms. Pamela Herhold, Financial Planning, presented the item. The item was discussed. President Radulovich moved approval of the updated, attached, and final Title VI equity analysis for the 2014 fare increase, as contemplated in Resolution No. 5208, which authorizes implementation of the first biennial Productivity-Adjusted Inflation Based Fare Increase on January 1, 2014. (The Final Title VI Assessment for the 2014 Inflation-Based Fare Increase is attached and hereby made a part of these Minutes.) The motion was seconded and carried by unanimous electronic vote. Ayes - 9: Directors Blalock, Fang, Keller, Mallett, McPartland, Murray, Raburn, Saltzman, and Radulovich. Noes - 0.

Discussion on the item continued. Directors Murray and Saltzman requested the resolution be amended. Direction was given to staff to return for a future discussion on fare options.

Director Saltzman moved adoption of Resolution No. 5236, In the Matter of Adopting an Amendment to Resolution No. 5208 (adopted February 28, 2013), as amended. Director Keller seconded the motion, which carried by unanimous electronic vote. Ayes - 9: Directors Blalock, Fang, Keller, Mallett, McPartland, Murray, Raburn, Saltzman, and Radulovich. Noes - 0.

President Radulovich announced the Board would enter into closed session in the adjacent conference room under Items 9-A and 9-B (Conference with Real Estate Negotiators) of the regular meeting agenda, and that the Board would reconvene in open session at the end of that closed session.

The Board Meeting recessed at 1:26 p.m.

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The Board reconvened in closed session at 1:36 p.m.

Directors present: Directors Blalock, Fang, Keller, Mallett, McPartland, Murray, Raburn, Saltzman, and Radulovich.

Absent: None.

Director McPartland exited the Meeting.

The Board Meeting recessed at 2:41 p.m.

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The Board reconvened in open session at 2:44 p.m.

Directors present: Directors Blalock, Fang, Keller, Mallett, Murray, Raburn, Saltzman, and Radulovich.

Absent: Director McPartland.

President Radulovich announced that the Board had concluded its closed session and there were no announcements to be made.

Director Fang, Chairperson of the Engineering and Operations Committee, brought the matter of Procurement of Transit Vehicles: Exercise Option 2, for 150 Transit Vehicles; Option 3, for 115 Transit Vehicles; and Option 4, for 100 Transit Vehicles, of Contract No. 40FA-110, with Bombardier Transit Corporation, before the Board. Mr. John Garnham, Group Manager, Rail Vehicle Capital Program, Mr. Paul Oversier, Assistant General Manager, Operations, and Mr. Mau presented the item. The item was discussed. Director Mallett moved that the General Manager be authorized to execute a change order to Contract No. 40FA-110, Procurement of Transit Vehicles, to exercise Options 2, 3, and 4, totaling 365 vehicles, for a reduced price of \$638,983,330.00, plus applicable tax and escalation, subject to certification by the Controller/Treasurer that funding is available; with the Controller/Treasurer's certification to be based on the availability of approximately \$140,000,000.00 in Proposition 1A High Speed Rail funds, and an agreement with the Metropolitan Transportation Commission for its share of approximately 75 percent for Options 2, 3, and 4. Director Saltzman seconded the motion. Discussion continued. The motion carried by unanimous electronic vote. Ayes - 8: Directors Blalock, Fang, Keller, Mallett, Murray, Raburn, Saltzman, and Radulovich. Noes - 0. Absent - 1: Director McPartland.

Director Fang brought the matter of Change Order to Contract No. 79HM-110, San Francisco Transition Structure Security Barrier (SFTS SB), with Taber Construction, Inc., for Temporary Suspension - Contractor Costs (C.O. No. 22), before the Board. Mr. Thomas Horton, Manager of Earthquake Safety Programs, presented the item. Director Blalock moved that the General Manager be authorized to execute Change Order No. 22, Temporary Suspension - Contractor Costs, in the amount of \$341,500.00, to Contract No. 79HM-110, SFTS SB, with Taber Construction, Inc. Director Mallett seconded the motion. The item was discussed. The motion carried by unanimous electronic vote. Ayes - 8: Directors Blalock, Fang, Keller, Mallett, Murray, Raburn, Saltzman, and Radulovich. Noes - 0. Absent - 1: Director McPartland.

Director Fang brought the matter of Project Changes and Third Addendum to the East Contra Costa BART Extension (eBART Project) Final Environmental Impact Report before the Board. Mr. Ric Rattray, eBART Project Manager, presented the item. Director Mallett moved that, having reviewed and considered the information contained in the Addendum, the Board adopt Resolution No. 5237, In the Matter of Adopting Modifications to the East Contra Costa BART Extension (eBART Project). Director Blalock seconded the motion, which carried by unanimous electronic vote. Ayes - 8: Directors Blalock, Fang, Keller, Mallett, Murray, Raburn, Saltzman, and Radulovich. Noes - 0. Absent - 1: Director McPartland.

Director Blalock, Chairperson of the Planning, Public Affairs, Access, and Legislation Committee, brought the matter of Authorize a Cooperative Agreement with the City of Oakland and a Lease Agreement for an Attended Bike Station at 19<sup>th</sup> Street/Oakland Station before the Board.

Director Keller exited the Meeting.

Mr. Steve Beroldo, Manager of Access Programs, presented the item. The item was discussed. Director Raburn moved that the General Manager or her designee be authorized to execute 1) the 19<sup>th</sup> Street BART Bike Station Cooperative Agreement with the City of Oakland and 2) a lease agreement with 19<sup>th</sup> and Broadway LLC for commercial space at 1775 Broadway for a five-year base term. Director Saltzman seconded the motion, which carried by unanimous electronic vote. Ayes - 7: Directors Blalock, Fang, Mallett, Murray, Raburn, Saltzman, and Radulovich. Noes - 0. Absent – 2: Directors Keller and McPartland.

Director Blalock brought the matter of California Passenger Rail Program Guiding Principles before the Board. Mr. David Kutrosky, Managing Director, Capitol Corridor, presented the item. Director Murray moved that the Board adopt the California Passenger Rail Program Guiding Principles. Director Mallett seconded the motion, which carried by unanimous electronic vote. Ayes - 7: Directors Blalock, Fang, Mallett, Murray, Raburn, Saltzman, and Radulovich. Noes - 0. Absent – 2: Directors Keller and McPartland.

President Radulovich called for the General Manager's report.

General Manager Grace Crunican reported on steps she had taken and activities and meetings she had participated in. Ms. Crunican reported that California Attorney General Kamala Harris had recognized BART Officer Andrew Rodrigues and Sergeant Gerald Dominguez. Ms. Crunican reported that the American Public Transportation Association (APTA) peer review panel had conducted interviews regarding the roadway worker protection program.

Mr. Oversier gave a report on San Francisco Municipal Transportation Agency's Central Subway boring project.

President Radulovich brought the matter of Board of Directors Role in Investigations of the October 19, 2013, Right of Way Accident before the Board, and proposed that the Board ratify the creation of a Wayside Safety Committee, and appoint Director Blalock as the Chairperson, and appoint Directors Fang, McPartland, and Saltzman as members of the committee.

Director Keller re-entered the Meeting.

Director Saltzman moved that the Wayside Safety Committee be created with the membership proposed by President Radulovich. Director Murray seconded the motion, which carried by unanimous roll call vote. Ayes - 8: Directors Blalock, Fang, Keller, Mallett, Murray, Raburn, Saltzman, and Radulovich. Noes - 0. Absent – 1: Director McPartland.

President Radulovich brought the matter of Board Meeting Schedule before the Board. The item was discussed.

President Radulovich called for Board Member Reports and Roll Call for Introductions.

Director Raburn requested responses to recent complaints from customers regarding delays for track maintenance on Saturdays and requested improved advance notice and real time announcements.

Director Blalock reported he had participated in a meeting of the APTA peer review panel.

Director Mallett requested the evaluation of self-supporting (self-funded) bicycle parking, lockers, and bike stations.

Director Mallett requested a report on the District's history of employee recognition (i.e., employee of the month) program(s).

President Radulovich called for Public Comment. No comments were received.

The Board Meeting was adjourned at 3:58 p.m.

Kenneth A. Duron  
District Secretary